

HOUSE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 257

AN ACT

2 To repeal sections 147.120, 148.330, 348.430,
3 and 348.432, RSMo, and to enact in lieu
4 thereof four new sections relating to tax
5 credits.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
7 AS FOLLOWS:

8 Section A. Sections 147.120, 148.330, 348.430, and 348.432,
9 RSMo, are repealed and four new sections enacted in lieu thereof,
10 to be known as sections 147.120, 148.330, 348.430, and 348.432,
11 to read as follows:

12 147.120. 1. If any corporation fails or refuses to pay the
13 taxes (including interest and penalties) assessed against it
14 after such assessment becomes final, the director of revenue
15 shall certify a list of the corporations so delinquent to the
16 attorney general who shall proceed forthwith to collect the
17 taxes. Suits for the collection of the taxes may be brought in
18 the name of the state in any court of competent jurisdiction and
19 any judgment rendered in such court in favor of the state shall
20 be a first lien on all properties and assets of the corporation

1 within this state.

2 2. The director of revenue shall notify the secretary of
3 state of any corporation that fails or refuses to pay the taxes,
4 including interest and penalties, assessed against it after such
5 assessment becomes final and the secretary of state shall then
6 administratively dissolve any domestic corporation that is
7 delinquent pursuant to section 351.486, RSMo, and shall revoke
8 the certificate of authority of any foreign corporation that is
9 delinquent pursuant to section 351.602, RSMo.

10 3. Any tax provided for pursuant to sections 147.010 to
11 147.120 not paid on or before the last day prescribed for payment
12 pursuant to sections 147.010 to 147.120 (determined with regard
13 to any extension of time for payment) shall be collected with a
14 penalty of five percent per month or fractional part thereof
15 until paid, not exceeding twenty-five percent in the aggregate.
16 Interest at the rate determined by section 32.065, RSMo, shall be
17 added to any tax not paid on or before the date due pursuant to
18 sections 147.010 to 147.120 (determined without regard to any
19 extension of time for payment). Nothing in sections 147.010 to
20 147.120 shall be construed so as to permit any officer of this
21 state to remit or abate such interest.

22 4. If any corporation fails to pay any tax due within the
23 time prescribed pursuant to sections 147.010 to 147.120 or if any
24 corporation makes errors and omissions in reports or payments,

1 and the director of revenue determines that such action is the
2 result of mistake or is due to circumstances beyond reasonable
3 control and that such delinquency or inaccuracy was unavoidable
4 or devoid of any intent to evade the tax, the director of revenue
5 may, at the director's discretion, waive any penalty that would
6 otherwise be imposed.

7 5. The director of revenue shall set the interest rate as
8 determined in section 32.065, RSMo. Such interest rate shall be
9 paid on all overpayments for the ensuing calendar year. The
10 interest shall accrue from the due date or the date of
11 overpayment, whichever is later. No interest shall be allowed or
12 paid if overpayment is refunded within four months after the
13 franchise tax report is filed.

14 6. Any notice of assessment of franchise tax due shall be
15 mailed to the corporation within three years after the report was
16 filed. The provisions of this subsection shall apply to all
17 reports filed after December 31, 1981.

18 7. If no report is filed or if a false and fraudulent
19 report is filed, a notice of assessment of franchise tax due may
20 be mailed to the corporation at any time.

21 8. If fraud or evasion on the part of a corporation or
22 anyone on behalf of a corporation is discovered, the director of
23 revenue shall determine the amount of which the state has been
24 defrauded, shall add to the amount so determined a penalty equal

1 to fifty percent thereof, and shall assess the same against the
2 corporation. The amount so assessed shall be immediately due and
3 payable; except that, the director of revenue shall promptly
4 thereafter give to such corporation written notice of such
5 assessment and penalty, which notice shall be served by
6 registered mail. Such corporation shall have the right to
7 petition for hearing of such assessment, as is provided in
8 sections 147.010 to 147.120.

9 9. Any person who willfully makes a false corporation
10 franchise tax report, or who willfully makes a false statement in
11 any report under oath or otherwise filed with or transmitted to
12 the director of revenue relating to the amount of any franchise
13 tax due pursuant to sections 147.010 to 147.120 shall, in
14 addition to other penalties provided by law and upon conviction
15 thereof, be fined not more than ten thousand dollars, or be
16 imprisoned in the county jail for not more than one year or by
17 not less than two nor more than five years in the state
18 penitentiary or by both fine and imprisonment together with the
19 cost of prosecution.

20 10. The director of revenue shall administer and enforce
21 the tax imposed by sections 147.010 to 147.120, and the director
22 is authorized to make such rules and regulations and to require
23 such facts and information to be reported as the director may
24 deem necessary to enforce the provisions of sections 147.010 to

1 147.120.

2 11. No rule or portion of a rule promulgated pursuant to
3 the authority of sections 147.010 to 147.120 shall become
4 effective unless it has been promulgated pursuant to the
5 provisions of chapter 536, RSMo.

6 12. Except as otherwise specifically provided in sections
7 147.010 to 147.120 the franchise tax shall be administered as
8 prescribed in the following provisions of chapter 143, RSMo:
9 subsections 1 and 4 of section 143.551, RSMo, sections 143.561,
10 143.571, 143.621, 143.631, 143.641, 143.651, 143.661, 143.681,
11 143.691, 143.721 and 143.731, RSMo, subsection 1 of section
12 143.741, RSMo, subsections 1, 2 and 5 of section 143.751, RSMo,
13 sections 143.771 and 143.791, RSMo, subsections 1 and 2 of
14 section 143.801, RSMo, subsections 1, 2 and 4 of section 143.811,
15 RSMo, sections 143.831, 143.841 and 143.851, RSMo, subsections 2
16 and 3 of section 143.861, RSMo, and sections 143.901, 143.902,
17 143.971 and 143.986, RSMo.

18 148.330. 1. Every such company shall, on or before the
19 first day of March in each year, make a return, verified by the
20 affidavit of its president and secretary, or other authorized
21 officers, to the director of the department of insurance stating
22 the amount of all premiums received on account of policies issued
23 in this state by the company, whether in cash or in notes, during
24 the year ending on the thirty-first day of December, next

1 preceding. Upon receipt of such returns the director of the
2 department of insurance shall verify the same and certify the
3 amount of tax due from the various companies on the basis and at
4 the rates provided in section 148.320, and shall certify the same
5 to the director of revenue together with the amount of the
6 quarterly installments to be made as provided in subsection 2 of
7 this section, on or before the thirtieth day of April of each
8 year.

9 2. Beginning January 1, 1983, the amount of the tax due for
10 that calendar year and each succeeding calendar year thereafter
11 shall be paid in four approximately equal estimated quarterly
12 installments, and a fifth reconciling installment. The first
13 four installments shall be based upon the tax for the immediately
14 preceding taxable year ending on the thirty-first day of
15 December, next preceding. The quarterly installments shall be
16 made on the first day of March, the first day of June, the first
17 day of September and the first day of December. Immediately
18 after receiving certification from the director of the department
19 of insurance of the amount of tax due from the various companies
20 the director of revenue shall notify and assess each company the
21 amount of taxes on its premiums for the calendar year ending on
22 the thirty-first day of December, next preceding. The director
23 of revenue shall also notify and assess each company the amount
24 of the estimated quarterly installments to be made for the

1 calendar year. If the amount of the actual tax due for any year
2 exceeds the total of the installments made for such year, the
3 balance of the tax due shall be paid on the first day of June of
4 the year following, together with the regular quarterly payment
5 due at that time. If the total amount of the tax actually due is
6 less than the total amount of the installments actually paid, the
7 amount by which the amount paid exceeds the amount due shall be
8 credited against the tax for the following year and deducted from
9 the quarterly installment otherwise due on the first day of June.
10 If the March first quarterly installment made by a company is
11 less than the amount assessed by the director of revenue, the
12 difference will be due on June first, but no interest will accrue
13 to the state on the difference unless the amount paid by the
14 company is less than eighty percent of one-fourth of the total
15 amount of tax assessed by the director of revenue for the
16 immediately preceding taxable year. The state treasurer, upon
17 receiving the moneys paid as a tax upon such premiums to the
18 director of revenue, shall place the moneys to the credit of a
19 fund to be known as "The County Stock Insurance Fund", which is
20 hereby created and established.

21 3. If the estimated quarterly tax installments are not so
22 paid, the director of revenue shall certify such fact to the
23 director of the division of insurance who shall thereafter
24 suspend such delinquent company or companies from the further

1 transaction of business in this state until such taxes shall be
2 paid and such companies shall be subject to the provisions of
3 sections 148.410 to 148.461.

4 4. On or before the first day of September of each year the
5 commissioner of administration shall apportion all moneys in the
6 county stock insurance fund to the general revenue fund of the
7 state, to the county treasurer and to the treasurer of the school
8 district in which the principal office of the company paying the
9 same is located. All premium tax credits described in sections
10 135.500 to 135.529, RSMo, and sections 348.430 and 348.432, RSMo,
11 shall only reduce the amounts apportioned to the general revenue
12 fund of the state and shall not reduce any moneys apportioned to
13 the treasurer of the school district in which the principal
14 office of the company paying the same is located. Apportionments
15 shall be made in the same ratio which the rates of levy for the
16 same year for state purposes, for county purposes, and for all
17 school district purposes, bear to each other; provided that any
18 proceeds from such tax for prior years remaining on hand in the
19 hands of the county collector or county treasurer undistributed
20 [on the effective date of sections 148.310 to 148.460] and any
21 proceeds of such tax for prior years collected thereafter shall
22 be distributed and paid in accordance with the provisions of such
23 sections. Whenever the word "county" occurs herein it shall be
24 construed to include the city of St. Louis.

1 348.430. 1. The tax credit created in this section shall
2 be known as the "Agricultural Product Utilization Contributor Tax
3 Credit".

4 2. As used in this section, the following terms mean:

5 (1) "Authority", the agriculture and small business
6 development authority as provided in this chapter;

7 (2) "Contributor", an individual, partnership, corporation,
8 trust, limited liability company, entity or person that
9 contributes cash funds to the authority;

10 (3) "Development facility", a facility producing either a
11 good derived from an agricultural commodity or using a process to
12 produce a good derived from an agricultural product;

13 (4) "Eligible new generation cooperative", a nonprofit
14 cooperative association formed pursuant to chapter 274, RSMo, or
15 incorporated pursuant to chapter 357, RSMo, for the purpose of
16 operating a development facility or a renewable fuel production
17 facility;

18 (5) "Eligible new generation processing entity", a
19 partnership, corporation, cooperative, or limited liability
20 company organized or incorporated pursuant to the laws of this
21 state consisting of not less than twelve members, approved by the
22 authority, for the purpose of owning or operating within this
23 state a development facility or a renewable fuel production
24 facility in which producer members:

1 (a) Hold a majority of the governance or voting rights of
2 the entity and any governing committee;

3 (b) Control the hiring and firing of management; and

4 (c) Deliver agricultural commodities or products to the
5 entity for processing, unless processing is required by multiple
6 entities;

7 (6) "Renewable fuel production facility", a facility
8 producing an energy source which is derived from a renewable,
9 domestically grown, organic compound capable of powering
10 machinery, including an engine or power plant, and any by-product
11 derived from such energy source.

12 3. For all tax [year] years beginning on or after January
13 1, 1999, a contributor who contributes funds to the authority may
14 receive a credit against the tax or estimated quarterly tax
15 otherwise due pursuant to chapter 143, RSMo, other than taxes
16 withheld pursuant to sections 143.191 to 143.265, RSMo, chapter
17 148, RSMo, chapter 147, RSMo, in an amount of up to one hundred
18 percent of such contribution. Tax credits claimed in a taxable
19 year may be done so on a quarterly basis and applied to the
20 estimated quarterly tax pursuant to this subsection. The
21 awarding of such credit shall be at the approval of the
22 authority, based on the least amount of credits necessary to
23 provide incentive for the contributions. A contributor that
24 receives tax credits for a contribution to the authority shall

1 receive no other consideration or compensation for such
2 contribution, other than a federal tax deduction, if applicable,
3 and goodwill. A contributor that receives tax credits for a
4 contribution provided in this section may not be a member, owner,
5 investor or lender of an eligible new generation cooperative or
6 eligible new generation processing entity that receives financial
7 assistance from the authority either at the time the contribution
8 is made or for a period of two years thereafter.

9 4. A contributor shall submit to the authority an
10 application for the tax credit authorized by this section on a
11 form provided by the authority. If the contributor meets all
12 criteria prescribed by this section and the authority, the
13 authority shall issue a tax credit certificate in the appropriate
14 amount. Tax credits issued pursuant to this section shall
15 initially be claimed in the taxable year in which the contributor
16 contributes funds to the authority. Any amount of credit that
17 exceeds the tax due for a contributor's taxable year may be
18 carried forward to any of the contributor's five subsequent
19 taxable years. Tax credits issued pursuant to this section may
20 be assigned, transferred or sold. Whenever a certificate of tax
21 credit is assigned, transferred, sold or otherwise conveyed, a
22 notarized endorsement shall be filed with the authority
23 specifying the name and address of the new owner of the tax
24 credit or the value of the credit.

1 5. The funds derived from contributions in this section
2 shall be used for financial assistance or technical assistance
3 for the purposes provided in section 348.407, to rural
4 agricultural business concepts as approved by the authority. The
5 authority may provide or facilitate loans, equity investments, or
6 guaranteed loans for rural agricultural business concepts, but
7 limited to two million dollars per project or the net state
8 economic impact, whichever is less. Loans, equity investments or
9 guaranteed loans may only be provided to feasible projects, and
10 for an amount that is the least amount necessary to cause the
11 project to occur, as determined by the authority. The authority
12 may structure the loans, equity investments or guaranteed loans
13 in a way that facilitates the project, but also provides for a
14 compensatory return on investment or loan payment to the
15 authority, based on the risk of the project.

16 6. In any given year, at least ten percent of the funds
17 granted to rural agricultural business concepts shall be awarded
18 to grant requests of twenty-five thousand dollars or less. No
19 single rural agricultural business concept shall receive more
20 than two hundred thousand dollars in grant awards from the
21 authority. Agricultural businesses owned by minority members or
22 women shall be given consideration in the allocation of funds.

23 348.432. 1. The tax credit created in this section shall
24 be known as the "New Generation Cooperative Incentive Tax

1 Credit".

2 2. As used in this section, the following terms mean:

3 (1) "Authority", the agriculture and small business
4 development authority as provided in this chapter;

5 (2) "Development facility", a facility producing either a
6 good derived from an agricultural commodity or using a process to
7 produce a good derived from an agricultural product;

8 (3) "Eligible new generation cooperative", a nonprofit
9 cooperative association formed pursuant to chapter 274, RSMo, or
10 incorporated pursuant to chapter 357, RSMo, for the purpose of
11 operating a development facility or a renewable fuel production
12 facility and approved by the authority;

13 (4) "Eligible new generation processing entity", a
14 partnership, corporation, cooperative, or limited liability
15 company organized or incorporated pursuant to the laws of this
16 state consisting of not less than twelve members, approved by the
17 authority, for the purpose of owning or operating within this
18 state a development facility or a renewable fuel production
19 facility in which producer members:

20 (a) Hold a majority of the governance or voting rights of
21 the entity and any governing committee;

22 (b) Control the hiring and firing of management; and

23 (c) Deliver agricultural commodities or products to the
24 entity for processing, unless processing is required by multiple

1 entities;

2 (5) "Employee-qualified capital project", an eligible new
3 generation cooperative with capital costs greater than fifteen
4 million dollars which will employ at least [one hundred] sixty
5 employees;

6 (6) "Large capital project", an eligible new generation
7 cooperative with capital costs greater than one million dollars;

8 (7) "Producer member", a person, partnership, corporation,
9 trust or limited liability company whose main purpose is
10 agricultural production that invests cash funds to an eligible
11 new generation cooperative or eligible new generation processing
12 entity;

13 (8) "Renewable fuel production facility", a facility
14 producing an energy source which is derived from a renewable,
15 domestically grown, organic compound capable of powering
16 machinery, including an engine or power plant, and any by-product
17 derived from such energy source;

18 (9) "Small capital project", an eligible new generation
19 cooperative with capital costs of no more than one million
20 dollars.

21 3. [Beginning tax year 1999, and ending December 31, 2002,
22 any producer member who invests cash funds in an eligible new
23 generation cooperative or eligible new generation processing
24 entity may receive a credit against the tax otherwise due

1 pursuant to chapter 143, RSMo, other than taxes withheld pursuant
2 to sections 143.191 to 143.265, RSMo, or chapter 148, RSMo,
3 chapter 147, RSMo, in an amount equal to the lesser of fifty
4 percent of such producer member's investment or fifteen thousand
5 dollars.

6 4.] For all tax years beginning on or after January 1,
7 [2003] 1999, any producer member who invests cash funds in an
8 eligible new generation cooperative or eligible new generation
9 processing entity may receive a credit against the tax or
10 estimated quarterly tax otherwise due pursuant to chapter 143,
11 RSMo, other than taxes withheld pursuant to sections 143.191 to
12 143.265, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in an
13 amount equal to the lesser of fifty percent of such producer
14 member's investment or fifteen thousand dollars. Tax credits
15 claimed in a taxable year may be done so on a quarterly basis and
16 applied to the estimated quarterly tax pursuant to this
17 subsection.

18 [5.] 4. A producer member shall submit to the authority an
19 application for the tax credit authorized by this section on a
20 form provided by the authority. If the producer member meets all
21 criteria prescribed by this section and is approved by the
22 authority, the authority shall issue a tax credit certificate in
23 the appropriate amount. Tax credits issued pursuant to this
24 section shall initially be claimed in the taxable year in which

1 the producer member contributes capital to an eligible new
2 generation cooperative or eligible new generation processing
3 entity. Any amount of credit that exceeds the tax due for a
4 producer member's taxable year may be carried back to any of the
5 producer member's three prior taxable years and carried forward
6 to any of the producer member's five subsequent taxable years.
7 Tax credits issued pursuant to this section may be assigned,
8 transferred, sold or otherwise conveyed and the new owner of the
9 tax credit shall have the same rights in the credit as the
10 producer member. Whenever a certificate of tax credit is
11 assigned, transferred, sold or otherwise conveyed, a notarized
12 endorsement shall be filed with the authority specifying the name
13 and address of the new owner of the tax credit or the value of
14 the credit.

15 [6.] 5. Ten percent of the tax credits authorized pursuant
16 to this section initially shall be offered in any fiscal year to
17 small capital projects. If any portion of the ten percent of tax
18 credits offered to small capital costs projects is unused in any
19 calendar year, then the unused portion of tax credits may be
20 offered to employee-qualified capital projects and large capital
21 projects. If the authority receives more applications for tax
22 credits for small capital projects than tax credits are
23 authorized therefor, then the authority, by rule, shall determine
24 the method of distribution of tax credits authorized for small

1 capital projects.

2 [7.] 6. Ninety percent of the tax credits authorized
3 pursuant to this section initially shall be offered in any fiscal
4 year to employee-qualified capital projects and large capital
5 projects. If any portion of the ninety percent of tax credits
6 offered to employee-qualified capital projects and large capital
7 costs projects is unused in any fiscal year, then the unused
8 portion of tax credits may be offered to small capital projects.
9 The maximum tax credit allowed per employee-qualified capital
10 project is three million dollars and the maximum tax credit
11 allowed per large capital project is one million five hundred
12 thousand dollars. If the authority approves the maximum tax
13 credit allowed for any employee-qualified capital project or any
14 large capital project, then the authority, by rule, shall
15 determine the method of distribution of such maximum tax credit.
16 In addition, if the authority receives more tax credit
17 applications for employee-qualified capital projects and large
18 capital projects than the amount of tax credits authorized
19 therefor, then the authority, by rule, shall determine the method
20 of distribution of tax credits authorized for employee-qualified
21 capital projects and large capital projects.